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AN ANALOGY OF GENDER-BASED VIOLENCE AND POLICE CORRUPTION IN MATTERS RELATED TO VIOLENCE AGAINST WOMEN DURING THE COVID-19 PANDEMIC

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ABSTRACT

In March 2020, an unprecedented new Corona phenomenon began to emerge, governments were forced to impose lockdowns, restrictions, quarantines and isolations globally to contain the virus. While these measures were necessary to stop the spread of this new phenomenon, it exposed the realities of women's gendered lives. In South Africa, the Covid-19 pandemic entwined with two existing endemics: gender-based violence and corruption within the South African Police Service (SAPS). Gender-based violence is a social-ill inextricably linked to gender-based structural inequalities and state institutions riddled with corruption. The exponential rise in gender-based violence related to Covid-19 once again captures the travesty of a police service paralysed by corruption and afflicted by incompetence to execute its tasks. The police service is unable to defend safety and justice when they are perpetrators themselves. The focus of this article is on the surge of gender-based violence as a consequential effect of Covid-19 restrictions, compounded by an unaccountable police service.

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1. INTRODUCTION

The global exponential surge in gender-based violence is a consequential effect of Covid-19 containment restrictions.¹ Reports suggest that the implementation of unprecedented restrictions impacted seriously on the prevalence of gender-based violence across the globe.² The measures necessary to contain the spread of Covid-19 exposed the realities of a contemporary society rooted in the socialisation of men and women into distinct roles in terms of which men were assigned dominium over women and granted legal authority to use violence to reinforce male domination and female subordination.³ The same measures used to curb the spread of the novel virus, unintentionally reinforced the historical stereotype that women are objects. As early as February 2020, during quarantine, domestic violence reports increased in many parts of the world. In China's Hubei Province for example domestic violence tripled while in France, gender-based violence cases increased by 30 per cent.⁴ According to the United Nations, domestic violence helpline calls increased between 25 and 33 per cent in Singapore, Argentina and Cyprus.⁵ At the beginning of the Covid-19 outbreak, Canada, Germany, Spain, the UK and USA experienced increased reports of domestic violence and demands for places of safety.⁶ This article looks at the trends in two jurisdictions – the United Kingdom and Canada – to establish a comparison to the position in South Africa.

Gender-based violence is a broad term that encompasses violence directed against both women and men, consisting of a range of acts, including “physical abuse, economic abuse, intimidation and stalking”.⁷ Although this article acknowledges the seriousness of all forms of

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- 1 UN Women (2020a) “The Shadow Pandemic: Violence Against Women and Girls and COVID-19”, available at <https://www.unwomen.org/en/digital-library/multimedia/2020/4/infographic-ccovid19-violence-against-women-and-girls> (visited 10 April 2021).
 - 2 See UN Women (2020a).
 - 3 Dlamini N (2020) “Gender-Based Violence, Twin Pandemic to COVID-19” 47(4-5) *Critical Sociology* 583 – 590 at 583.
 - 4 Wanqing Z (2020) “Domestic Violence Cases Surge During COVID-19 Epidemic”, available at <https://www.sixthtone.com/news/1005253/domestic-violence-cases-surge-during-covid-19-epidemic> (visited 10 February 2021); see UN Women (2020a).
 - 5 See UN Women (2020a).
 - 6 Simonovic D (2020) “Violence Against Women, its Causes and Consequences Regarding COVID-19 and the Increase of Domestic Violence Against Women” Submission to the UN Special Rapporteur, available at <https://www.hrw.org/news/2020/07/03/submission-un-special-rapporteur-violence-against-women-its-causes-and-consequences> (visited 10 February 2022).
 - 7 United Nations (1993) Declaration on the Elimination of Violence against Women, UN Doc A/48/104

gender-based violence, it focuses on violence perpetrated by men against women. A disproportionately large number of women, compared to men, are at the receiving end of abuse.⁸ Clearly, this has been exacerbated during the global pandemic.

For centuries, the behaviour typified by abusers as we know it was associated with men. Men have been constructed as abusers since the establishment of private ownership of property.⁹ Gender-based violence is rooted in the ideology that men have an inherent right to rule and dominate women. The idea of inherent male superiority, although altered over time, continues to manifest in the constructs of society.¹⁰ Issues of power and control are central to gender-based violence. Although legislatures have taken a variety of steps to alter the law's attitude towards domestic violence, gender-based violence remains a global scourge with huge individual and societal implications.¹¹ In 2017, Care reported that:

Millions of women have died, been disabled and suffered psychological trauma as a result of [gender-based] violence. Women and their families bear the highest burden of social and economic costs, including shame and stigma. It affects their participation in education, employment, civic life and politics, and impedes their access and control over resources – increasing poverty and inequality.¹²

In essence, many abused women are precluded from contributing meaningfully to society and the devastating consequences of gender-based violence adversely affect economic growth. In 2019, the World Bank reported that gender-based violence costs some countries

defines violence against women is an act of gender-based violence that results in or is likely that result in, physical, sexual or psychological harm or suffering to women, including threats of such acts, coercion or arbitrary deprivation of liberty, whether occurring in public or private life.

8 Oppenlander N (1981) "The Evolution of Law and Wife Abuse" 4(3) *Law and Policy* 382 – 405 at 382.

9 De Beauvoir S & Parshley H (1949) *The Second Sex* UK: Penguin Books at 4.

10 Lutze E & Symons L (2003) "Evolution of Domestic Violence Policy Through Masculine Institutions: From Discipline to Protection to Collaborative Empowerment" 2(2) *Criminology & Public Policy* 319 – 328 at 320.

11 Tracy S (2007) "Patriarchy and Domestic Violence: Challenging Common Misconceptions" 50(3) *JETS* 573 – 594 at 574.

12 CARE (2017) "Counting the Cost: The Price Society Pays for Violence Against Women Report", available at https://www.care-international.org/files/files/Counting_the_costofViolence (visited 10 February 2022).

approximately 3.7 per cent of their Gross Domestic Product (GDP), “more than double on what some governments spend on education”.¹³

In South Africa, the police have proven ineffective against the prevalence of gender-based violence long before the Coronavirus crises.¹⁴ The failings and shortcomings of the police in the fight against gender-based violence illustrate how an ineffective and unaccountable police service lost the faith and trust of women, which negatively affects their ability to reduce gender-based violence rates. The perception that the police is a corrupt force is a major deterrent for women to report crimes of violence against them.¹⁵ The police, as the gatekeepers of the criminal justice system, play a pivotal role in the fight against gender-based violence.¹⁶ An accountable and effective police service can increase public confidence and result in a reduction in gender-based violence rates. Unfortunately, SAPS’ monopoly of power and unfettered discretion contributes significantly to police corruption, which leads to an inability to exercise their functions effectively.¹⁷ Corruption and accountability issues within SAPS can, arguably, be symptomatic of the corruption endemic within the South African government.¹⁸ In 2019, Corruption Watch found that corruption continued to be a significant problem within governmental sectors.¹⁹ Unsurprisingly, SAPS was the most corrupt.

2. THE SCALE OF GENDER-BASED VIOLENCE

Violence against women both predates and succeeds the legal notion of violence against women. Women have been subjected to violence since the beginning of civilisation, as we

13 World Bank (2019) “Gender-based Violence (Violence Against Women and Girls)” IBRD IDA.

14 Peiffer C et al (2019) “The surprising case of police bribery reduction in South Africa” 72(5) *Crime, Law & Social Change* 587 – 606 at 589.

15 Olutola A & Bello P (2016) “An exploration of the factors associated with public trust in the South African Police Service” 8(12) *International Journal of Economics and Finance Studies* 291 – 236 at 220.

16 Lambrechts D (2012) “The Impact of Organised Crime on State Social Control: Organised Criminal Groups and Local Governance on the Cape Flats, Cape Town, South Africa” 38(4) *Journal of Southern African Studies* 787 – 803 at 787.

17 Steytler N and Muntingh L (2016) “Meeting the Public Security Crisis in South Africa: Centralising and Decentralising Forces at Play” in Martin B and Koen R (eds) *Law and Justice at the Dawn of the 21st Century Essays in Honour of Lovell Derek Fernandez* at 67 & 76.

18 Pypers E (2018) “The State Capture of Independent Institutions: An Analysis of the National Prosecuting Authority, 1998-2017” unpublished LLM thesis, University of the Western Cape, 2018.

19 Transparency International & AfroBarometer (2019) “Global Corruption Barometer Africa”.

know it.²⁰ Indeed, society has recognised violence against women as a punishable criminal act. In almost every society in the world, violence against women is unlawful. Yet, it continues to be a seemingly intractable problem globally.²¹

Male violence against women has become a routine aspect of our world.²² In 2013, the World Health Organisation reported that between 19 per cent and 76 per cent of girls, from the age of 15 years had been subjected to domestic violence.²³ According to the World Bank, about one in every three women suffered gender-based violence globally.²⁴ In other words, almost one third of the world's population are subjected to gender-based violence in their lifetime. What is more, in 2019 the World Bank reported that an average of 137 women were killed daily by their male abusers.²⁵ Many countries implemented schemes to address the increase in violence against women. Regrettably, although these schemes were implemented for the benefit of women and public awareness was created by campaigning, men continue to perpetrate abuse against women. Since the beginning of lockdown many countries witnessed an escalation of gender-based violence.²⁶ The UN reported no less than 243 million girls and women were subjected to abuse globally during Covid-19.²⁷ In South Africa, the Covid-19 measures necessary to stop the spread of the virus exposed the inability of the police to tackle the issue of gender-based violence. The failure of the police to perform their duties stems not only from incompetence, but also corruption.²⁸

20 Bozzoli B (1983) "Marxism, Feminism and South African Studies" 9(2) *Journal of South African Studies* 139 – 171 at 140.

21 Morrell R (2012) "Hegemonic Masculinity/Masculinities in South Africa Culture, Power and Gender Politics" 15(1) *Men and Masculinities* 11 – 30 at 14.

22 Oppenlander (1981) at 382.

23 The World Health Report (2013) "Research for Universal Health Coverage", available at http://apps.who.int/iris/bitstream/10665/85761/2/9789240690837_eng.pdf (visited 10 February 2022).

24 World Bank (2019).

25 Ibid.

26 Dlamini (2020) at 585.

27 See UN Women (2020a).

28 Al Gasseer et al (2004) "Status of women and infants in complex humanitarian emergencies" 49(4) *Journal of Midwifery & Women's Health* 7 – 13 at 7.

3. SOUTH AFRICA

In South Africa, the emancipation of women is apparent in many spheres of society. In compliance with the Constitution, the government has implemented policy reforms to address the imbalances of the past which either excluded women or subjected them to discrimination including policies to promote equality, prevent unfair discrimination and provide employment equity.²⁹ Despite substantial advancement for women, the pillars of our patriarchal society remain and men continue to be dominant in, inter alia, economics, finance, law and technology. Women are still “underrepresented in the highest positions of social, economic, and political power”.³⁰

Over the last three decades, community awareness of domestic violence has increased significantly and, in line with this shift, substantial legal reforms directed at assisting victims of gender-based violence have taken place. South Africa is party to international human rights conventions, including CEDAW.³¹ In 1998, the South African government made violence against women a national priority by adopting crime prevention strategies and implementing laws aimed at preventing and assisting survivors of gender-based violence.³² Many changes in the field of violence against women have been welcomed, yet gender-based violence remains a serious and escalating problem.³³

South Africa’s gender-based violence rates are amongst the highest in the world. In 2013, the domestic violence prevalence was rated five times the global average.³⁴ Substantial numbers of women are still beaten by their male abusers every day, and many of them die as a result. Police crime statistics for the reporting year (2018/2019) revealed that on average, 856 women were murdered over 107 days.³⁵ In 2019, one woman was killed every 8 hours and 51

29 See the Constitution of the Republic of South Africa, 1996; The Promotion of Equality and Prevention of Unfair Discrimination Act 4 of 2000; Promotion of Administrative Justice Act 3 of 2000; & Employment Equity Act 55 of 1998.

30 Rhode L (1991) “The ‘No Problem’ Problem: Challenges and Cultural Change” 100 *Yale Law Journal* 1731 – 1736 at 1733.

31 United Nations (1993).

32 Constitution 1996; see Domestic Violence Act 116 of 1998 and the Criminal Law (Sexual Offences and Related Matters) Amendment Act 32 of 2007.

33 Tracy (2007) at 574.

34 National Strategic Plan on Gender-Based Violence & Femicide (2020).

35 South African Police Service Annual Crime Report (2019).

per cent of women experienced violence at the hands of their abusers in South Africa.³⁶ While these statistics are frightening, they represent only a small part of a wider endemic, as many go unreported and unrecorded. In 2019, Corruption Watch reported that distrust in the police was a major deterrent preventing women from reporting their abusers.³⁷

In 2018, in response to the scourge of gender-based violence and femicide, a steering committee on gender-based violence and femicide was established. The steering committee oversaw the development of a strategic plan, aimed at mobilising all sectors of society against gender-based violence and femicide, including the police service.³⁸ The strategic plan is intended to address

the needs and challenges faced by all, especially women across age, sexual orientation, sexual and gender identities; and specific groups such as elderly women, women who live with disability, migrant women and trans women, affected and impacted by the gender-based violence scourge in South Africa.³⁹

This initiative was delivered in the midst of the Covid-19 pandemic and though this plan may be comforting, we have yet to see if this instrument can be a bulwark in the fight against police corruption and gender-based violence.⁴⁰

During the first week of lockdown level 5, approximately 2 320 gender-based violence complaints were reported.⁴¹ According to the South African Minister of Police, Bheki Cele, this was 37 per cent more than the weekly average of gender-based violence complaints reported to the police in 2019.⁴² In July 2020, President Cyril Ramaphosa, deemed the scourge of gender-based violence and femicide as "another pandemic that is raging in our country" alongside Covid-19.⁴³ While it is not yet known how many women survived gender-based

36 Crabtree J (2020) "South Africa's Other Pandemic: Femicide Rate Spikes as Coronavirus Lockdown Lifts", available at <https://news.cgtn.com/news/2020-06-20/South-Africa-s-femicide-rate-spikes-as-coronavirus-lockdown-lifts> (visited 10 June 2021).

37 Transparency International & AfroBarometer (2019).

38 Dlamini (2020) at 590.

39 National Strategic Plan on Gender-Based Violence & Femicide (2020).

40 Dlamini (2020) at 584.

41 Newman G & Du Plessis A (2020) "Restricting Public Movement and Alcohol Consumption Could Reduce Certain Types of Crime and Violence, but Increase Others" *Institute for Security Studies*, available at <https://issafrica.org/iss-today/how-might-the-covid-19-lockdown-affect-public-safety-in-sa> (visited 10 June 2021).

42 Pikoli Z (2020) "Is Gender Based Violence not a serious and violent crime, Minister Cele?" *Maverick Citizen: GBV Analysis*.

43 News24wire (18 June 2020) "Gender-Based Violence, Femicide a Raging Pandemic in South Africa,

violence during lockdown, sadly, we are reminded of this fact when the devastating results of gender-based violence end up on the front pages of newspapers, on our television screens or social media platforms.⁴⁴ The too familiar fates of the high-profile cases of Tshegofatso Pule and Naledi Phangindawo certainly create national outrage but do little to assist the millions of women subjected to gender-based violence as a matter of course.⁴⁵

The imposition of lockdowns, restrictions, quarantines and isolations, exacerbated the challenges women already faced. The fear and anxiety, as well as the economic strain on many families as a consequence of Covid-19 measures, reinforced the historical stereotype that women are objects and state institutions tasked with combating gender-based violence proven incapable. The heightened presence of the police on the streets, policing new lockdown regulations did nothing to secure the safety of vulnerable women.⁴⁶ The systemic corruption and lack of accountable leadership in the police did not prioritise gender-based violence during lockdown.⁴⁷ Consequently, gender-based violence continued relentlessly.

3.1 Normative and jurisprudential guidance

South Africa has the Domestic Violence Act 116 of 1998 that regulates domestic violence.⁴⁸ It provides for the various forms of domestic violence ranging from physical, psychological, sexual emotional and various forms of abuse such as economic, emotional, verbal and psychological abuse.⁴⁹ The Act also details the duty on the police to assist and inform complainants of their rights, and the process for applying for a protection order.⁵⁰

Recent cases have been handed down by the courts to give guidance on the interpretation of the Domestic Violence Act. In the case of *V v V*,⁵¹ the Court stated that unlawfulness was not

says Ramaphosa”, available at <https://www.polity.org.za/article/gender-based-violence-femicide-a-raging-pandemic-in-south-africa-says-ramaphosa-2020-06-18> (visited 10 June 2021).

44 Lutze & Symons (2003) at 320.

45 News24wire (18 June 2020).

46 Dlamini (2020) at 584.

47 Newman & Du Plessis (2020).

48 From the long title, the Act seeks to provide for the issuance of protection orders concerning domestic violence, and for matters connected thereto.

49 Section 1.

50 Sections 2 and 4 respectively.

51 *V v V* 2020 (1) SACR 89 (KZP).

a necessary requirement to determine whether conduct amounted domestic violence,⁵² and secondly, there was no need to read this requirement into the requirement of unlawfulness from either the law of delict or criminal law.⁵³ In another case of *KS v AM*⁵⁴ during the subsistence of an intimate relationship between the complainant and the respondent, the former discovered that the respondent was married to someone else and she terminated the relationship with the respondent.⁵⁵ The respondent proceeded to open up a Facebook account and sent defamatory material to the complainant's friends. The Court found that section 7(2) of the Domestic Violence Act empowered it to order the seizure of the respondent's digital equipment to remove any photograph, video, audio and/or records relating to the complainant.⁵⁶ Literature suggests that following a review of the link between quarantine and gender-based violence, Mittal and Singh found pandemics present a surge in gender-based violence that raises serious concerns about the safety of women.⁵⁷

4. THE SOUTH AFRICAN POLICE SERVICE

Police corruption and issues of unaccountability are revelled with misogynistic perceptions of blaming and disbelief, resulting in a dereliction of their duties. Women reporting gender-based violence to the police are often side-lined in exchange for a bribe.⁵⁸ This clearly demonstrates that the violence perpetrated against women by men is often condoned under the facade of power dynamics, self-interest and money.⁵⁹ The SAPS' history is tied to an ideology, based on discrimination according to race, class and sex, which sanctioned the abuse of power, impunity and brutality.⁶⁰ Corrupt practices by police officials including

52 Paragraph 15.

53 Ibid.

54 *KS v AM* 2018 SACR 240.

55 Paragraphs 7 – 10.

56 Paragraphs 11 – 12.

57 Mittal S & Singh T (2020) "Gender-Based Violence During COVID-19 Pandemic: A Mini-Review" (1)4 *Frontiers in Global Women's Health* at 2.

58 Motala S (2019) "The terrible consequences of police corruption in South Africa" *Voices for Transparency*, available at <https://voices.transparency.org/the-terrible-consequences-of-police-corruption-in-south-africa> (visited 10 July 2021).

59 Arnoff E et al (2013) "The Women's Justice and Empowerment Initiative: Lessons Learned and Implications for Gender-Based Violence Programming in Sub-Saharan Africa" Technical Report, Measure Evaluation, available at <https://www.measureevaluation.org/resources/publications/tr-13-95> (visited 10 June 2021).

60 Chanock M (1991) "A Peculiar Sharpness: An Essay on Property in the History of Customary Law in

extortion and venality can be traced to the 1930s.⁶¹ During apartheid, the police used brutal force to protect the interest of the white minority, reinforce fear and subjugation among the black majority.⁶² The police fostered fear that any perceived threat to its authority warranted violent punishment.⁶³ The legacy of power, violence and self-interest constructed the context in which post-apartheid police officers find themselves.⁶⁴

Over the past 25 years, substantial legal reforms directed at assisting and improving the police service have taken place. Chapter 11 of the Constitution mandates the police service to serve, combat and investigate.⁶⁵ The Independent Complaints Directorate, later known as the Independent Police Investigative Directorate (IPID), was established to investigate any misconduct or offences committed by police officials.⁶⁶ In 1997, a Code of Conduct for police officers was introduced to instil professional conduct.⁶⁷ In an attempt to build relations with the community, a community-orientated policing approach was embraced in 2001.⁶⁸ Regrettably, these reforms did little to address the menace. In 2020, “Corruption Watch recorded the highest number of police corruption reports in its history”.⁶⁹ The police service is often referred to as the primary agent of corruption leading from top to bottom.⁷⁰

In 2010, the former National Commissioner, Jackie Selebi, was convicted on a number of charges including corruption.⁷¹ In 2012, the current Minister of Police, Bheki Cele was removed from the office of National Commissioner on allegations of corruption.⁷² His

Colonial Africa” 32(1) *The Journal of African History* 65 – 88 at 71.

61 Kok A & Van Der Spuy E (2016) “South African inquiries into policing:1910-2015” 53 *SA Crime Quarterly* 1 –27.

62 Shaw M (1996) “South Africa: Crime in transition” 8(4) *Terrorism and Political Violence* 156 – 175.

63 Gqola P (2017) “How the ‘Cult of Femininity’ and Violent Masculinities Support Endemic Gender Based Violence in Contemporary South Africa” 5(1) *African Identities* 111 – 124 at 113.

64 Shaw (1996) at 157.

65 Constitution 1996.

66 Independent Police Investigative Directorate (IPID) Act 1 of 2011.

67 Bello P (2021) “Do People Still Repose Confidence in the Police? Assessing the Effects of Public Experience of Police Corruption in South Africa” 19(2) *African Identities* 141 – 159 at 146.

68 Faull A (2017) “The South African Police Service’s Code of Conduct: A Critical Review” 17 *African Policing Civilian Oversight Forum Policy Paper* 1 – 28.

69 Corruption Watch (2020) “From Crises to Action” Annual Report 2020, available at Corruptionwatch.org.za (visited 10 July 2021).

70 Bello (2021) at 146.

71 *S v Selebi* 2012 (1) SACR 209 (SCA).

72 BBC (2012) “South Africa Police Chief Bheki Cele Fired by Jacob Zuma. BBC”, available at

appointment in 2018, as Minister of Police was controversial, in the sense that his appointment in 2012 was flawed with allegations of corruption.⁷³ Similarly, the conduct relating to allegations of corruption by both the former National Commissioners General, General Khomotso Phahlane and General Riah Phieyega came into question while they were in office.⁷⁴ In 2018, McBride referred to SAPS as a “matrix of corruption” in which lower-ranking police officials did not escape the plague.⁷⁵ IPID arrested several lower-ranking officials for corruption over the years.⁷⁶ Recently, the Zondo Commission of Inquiry into allegations of state capture during the Zuma administration provided testimony of “extensive and pervasive extortion, petty corruption and abuse of power” in the police service.⁷⁷ The police service is the least trusted institution in South Africa and the high levels of police corruption has escalated to a point where the public has little or no faith in the police service.⁷⁸ In a study on sexual violence, Machisa found that due to the lack of trust in the police only one in 23 women are more likely to report their abusers to the police.⁷⁹

A police service riddled with corruption has severe repercussions for survivors of gender-based violence. A corrupt police service results in an inability to exercise their functions. Corrupt police officers often dismiss cases of gender-based violence, are more sympathetic to men and often willing to turn a blind eye in exchange for a bribe.⁸⁰ Police corruption however is not limited to taking a bribe, but it includes tampering with dockets, incomplete investigations or refusing to charge the perpetrator because the perpetrator is linked to the officer investigating the charge.⁸¹ In 2020, the Minister of Police confirmed that over the

<http://www.bbc.co.uk/news/world-africa-18414786> (visited 10 July 2021).

73 Bello (2021) at 146.

74 Peiffer et al (2019) at 588.

75 McBride R (2018) “IPID Briefing to the Parliamentary Portfolio Committee on Police”, available at <http://png.org.za/committee-meeting/26095/> (visited 10 July 2021).

76 Transparency International & AfroBarometer (2019).

77 Lamb G (2021) “Safeguarding the Republic? The South African Police Service, Legitimacy and the Tribulations of Policing a Violent Democracy” 56(1) *Journal of Asian and African Studies* 92 – 108 at 102.

78 Transparency International & AfroBarometer (2019).

79 Machisa M et al (2017) *Rape Justice in South Africa: A retrospective study of the investigation, prosecution and adjudication of reported rape cases from 2012* SAMRC: Pretoria.

80 Neetu J (2021) “Covid -19 and Gender-Based Violence (GBV): Hard-To-Reach Women and Girls, Services, and Programmes in Kenya” 29(1) *Gender & Development* 55 – 71 at 57.

81 Corruption Watch (2019) “The Writing is on the Wall: Annual Report”, available at https://www.corruptionwatch.org.za/wp-content/uploads/2020/03/CRW0320_7171_AnnualReport-

course of three months, the courts in the Western Cape struck 92 gender-based violence cases off the roll due to missing dockets and incomplete investigations.⁸² As a result, women were denied access to justice.

For women, survivors of gender-based violence who seek justice against their abusers, police officials act as first responders.⁸³ In 2019, IPID reported an increase of rape and sexual assault by both on-duty and off-duty police officers.⁸⁴ Women become double victims. They are first victims of their abusers; then they are victims of police officials acting as first responders. Women are less inclined to report crimes of violence against them or they withdraw their cases as a result of police brutality. Furthermore, the police service lacks dedicated and trained personnel to respond adequately to survivors of gender-based violence.⁸⁵ The police often view violence perpetrated by a man against a woman as a private matter, rather than an offence.⁸⁶ Today, the law has changed for the benefit of women, yet women remain underrepresented in the police service.⁸⁷ Men are still dominant in the police force, and continue to endorse their understanding and view of women's experiences.⁸⁸ In 2020, the parliamentary monitoring group reported that the "negative interactions between the police" and gender-based violence complainants during Covid-19 restrictions were ongoing.⁸⁹

During the initial phase of lockdown, the police did not prioritise gender-based violence complaints. Instead, they were preoccupied with enforcing Covid-19 containment measures. Women in need of assistance were refused any intervention, rather they were victimised and

2019 (visited 10 June 2021).

82 Reddy S (2020) "Missing Dockets and Incomplete Investigations Hamper Justice in Western Cape GBV Case" *Daily Maverick*, available at <https://www.dailymaverick.co.za/article/2020-11-25-missing-dockets-and-incomplete-investigations-hamper-justice-in-western-cape-gbv-cases> (visited 10 July 2021).

83 Bello (2021) at 150.

84 Independent Police Investigative Directorate Annual Report 2019/2020.

85 Rape Crises Cape Town Trust "Prevalence 2017", available at <http://rapecrises.org.za/rape> (visited 22 June 2021).

86 National Strategic Plan on Gender-Based Violence & Femicide (2020).

87 Faull (2017) at 11.

88 Gilbert P (2002) "Discourses of Female Violence and Societal Gender Stereotypes" 8(11) *Violence Against Women* 1271 – 1300 at 1272.

89 Parliamentary Monitoring Group Briefing (November 2020).

humiliated by the police.⁹⁰ In 2020, during a meeting on gender equality, Ndaba reported that:

A victim goes to the police station; they have just been raped. The police ask the victim, "Will you be able to identify the perpetrator?". The victim says, "No, I will not be able to do that". The investigating officer then said that there is no case. That kind of response already demotivates the victim.⁹¹

Gender-based violence crimes went unreported because the police were incapable of adequately responding to gender-based violence complaints during Covid-19 containment measures.⁹² The optimal operation of police stations were further inhibited by the pandemic. Curfew during lockdown prevented access to police stations after hours and many police stations were closed for decontamination as police officers tested positive for Covid-19.⁹³ Although, incidents of gender-based violence went unreported for fear of contracting the deadly disease, reporting was further impeded by fear of victimisation by and distrust in corrupt police officers.⁹⁴

Police corruption continues to be a seemingly intractable problem in the fight against gender-based violence. A disproportionate number of women continue to be victims of abuse of power, corruption and systems informed by male perceptions. In general, women have significantly fewer opportunities and much less social power than men. Men are often the more economically empowered and therefore have the means to bribe. The current systemic apathy of the police service to appropriately deal with gender-based violence and its consequences are rooted in corruption. Against this backdrop, it has to be acknowledged that corruption in the police service must be urgently addressed.

90 Ibid.

91 Ndaba C (2021) Commission for Gender Equality's 2020/21 Annual Performance Plan Meeting, available at https://static.pmg.org.za/210511CGE_2021-2022_APP_PRESENTTION (visited 10 June 2021).

92 Parliamentary Monitoring Group Briefing (November 2020).

93 Newman & Du Plessis (2020).

94 Ndaba (2021).

5. CONCLUSION

To adequately and efficiently deal with gender-based violence, it is true that the South African police service requires significant resources including ethical officials who will enforce the law fairly and justly. It is also important that there is a deliberate and concentrated application of the Domestic Violence Act as a critical normative framework that leads to the protection of persons who could be affected by the domestic violence in various forms. It is clear that the courts are more susceptible to applying a dynamic approach to the issues of domestic violence